

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Level 3
Communications, LLC's Petition for
Arbitration Pursuant to Section 252(b) of
the Communications Act of 1934, as
Amended by the Telecommunications
Act of 1996, and the Applicable State
Laws for Rates, Terms, and Conditions
of Interconnection with Qwest
Corporation

FIRST PREHEARING ORDER

This matter came on for a telephone prehearing conference before Administrative Law Judges Kathleen D. Sheehy and Steve M. Mihalchick on March 3, 2006.

Victoria Mandell, Esq., Level 3 Communications, Inc. (Level 3), 1025 Eldorado Boulevard, Broomfield, CO 80021, appeared for Level 3.

Jason Topp, Esq., Qwest Corporation (Qwest) Law Department, 200 South Fifth Street, Room 2200, Minneapolis, MN 55402; and Thomas Dethlefs, Esq., Qwest Services Corporation, 1801 California, Suite 1000, Denver, CO 80202, appeared for Qwest.

Linda S. Jensen, Assistant Attorney General, 445 Minnesota Street, Suite 900, St. Paul, Minnesota 55101, appeared on behalf of the Minnesota Department of Commerce (Department).

Based on the discussions during the prehearing conference, and all of the files and proceedings, the Administrative Law Judge makes the following:

ORDER

1. The parties to this matter are Level 3, Qwest, and the Department. No other intervention is permitted. Others wishing to participate may attend hearings as observers, file written comments, and request the opportunity for oral argument.¹

¹ Minn. R. 7812.1700, subp. 10.

SCHEDULE

2. The following schedule is adopted:

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| •Level 3 files Amended Proposed Interconnection Agreement. | March 10, 2006 |
| •Qwest files Response to the Petition for Arbitration. | March 24, 2006 |
| •Level 3 and Qwest file simultaneous Direct Testimony and Joint List of Disputed Issues. | April 14, 2006 |
| •Department of Commerce files Direct Testimony. | May 31, 2006 |
| •Level 3 and Qwest file simultaneous Reply Testimony and Prehearing Briefs, if desired. | November 3, 2005 |
| Evidentiary Hearing, beginning at 9:30 a.m. in the Commission Offices at 121 Seventh Place East, Suite 350, St. Paul, Minnesota. | July 11-14, 2006 |

3. Briefing deadlines and a date for the Arbitration Report will be set at the conclusion of the hearing (initial briefs three weeks after transcript is available; reply briefs two weeks after that). The parties anticipate that the Arbitration Report will be available in the end of September 2006 and that a final Commission decision will be made in the end of November 2006.²

PROCEDURE

4. The Rules of the Office of Administrative Hearings govern the conduct of the hearings, and the Professionalism Aspirations adopted by the Minnesota Supreme Court will be observed.

FILING OF DOCUMENTS

5. Prefiled testimony and exhibits may be in any reasonable format that is understandable, logically organized, and capable of being cited by page and line number, paragraph number, or similar identifier.

² Level 3 requested negotiations on August 8, 2005, and it filed a petition for arbitration on January 17, 2006. Pursuant to 47 U.S.C. § 252(b)(4)(C), the original deadline for the Commission's decision in this matter would have been nine months from the request for negotiations, or May 8, 2006. Level 3 has agreed to waive these deadlines pursuant to the schedule above.

6. All documents filed, including prefiled testimony, **but excluding information requests and responses**, shall be filed as follows:

- a. The original shall be filed with the court reporter.
- b. One copy shall be filed with each Administrative Law Judge.
- c. One copy shall be served on the persons listed on the attached service list, in the number indicated. An electronic copy, where possible, shall also be sent by email to persons whose email address is provided on the service list. The Office of Administrative Hearings will revise the list as necessary. Service shall be made according to the most current service list provided to the parties by the Office of Administrative Hearings.
- d. Pursuant to Minn. R. 1400.5100, subp. 9, and Minn. R. 7829.0400, subp. 1, the effective date of filing shall be the date the document is mailed to the Office of Administrative Hearings or delivered to the Executive Secretary of the Commission. Filings to the Administrative Law Judge may be accomplished by email, sent to Kathleen.Sheehy@state.mn.us and Steve.Mihalchick@state.mn.us. Any filing sent by email will be followed by a hard copy.
- e. Proof of service shall be filed with each filed document or within three business days thereafter.
- f. An electronic copy of prefiled testimony shall be served on the other parties and the court reporter by 3:00 p.m. on the day it is due.

DISCOVERY

7. All requests for information shall be made in writing, or electronically followed by writing, to the person from whom the information is sought, with a copy of the request mailed to all parties of record. No such request shall be provided to the Administrative Law Judges. The party responding to the information request shall provide the information requested to the requesting party within ten calendar days after receipt of the request, unless the requesting party agrees to provide additional time. There shall be a continuing obligation to update and supplement information responses. The information need not be supplied as a matter of course to all other parties unless specifically requested by a party. Information requests or responses received after 3:00 p.m. on business days or on weekends or State holidays shall be considered as being received on the following business day, except that any U.S. Mail received during business hours shall be considered as being received on the same day.

8. In the event the information cannot be supplied within ten calendar days, the responding party shall notify the requesting party within four business days of receipt of the discovery request of the reasons for not being able to supply the information and attempt to work out a schedule of compliance with the requesting party. All disputes concerning the reasonableness of discovery requests and the timing and

sufficiency of responses shall be resolved by the Administrative Law Judges upon motion of a party. Notice of such a motion should be made by email if possible and may be made be heard by telephone conference among the Administrative Law Judges and affected parties.

PREFILED TESTIMONY AND ORDER OF TESTIMONY

9. Prefiled testimony shall be marked and received as exhibits. Prefiled testimony that is amended or that is not offered into the record shall be considered withdrawn and the sponsoring witness may not be cross-examined concerning the withdrawn testimony. Except for cause shown, all substantive revisions or corrections to any prefiled testimony shall be made in writing and served upon the Administrative Law Judges and the parties by email no later than three days before the evidentiary hearing starts.

10. Unless the parties agree otherwise, the order of testimony and questioning in the evidentiary hearings shall be: Qwest first, then Level 3, then the Department.

EXAMINATION OF WITNESSES

11. Witnesses shall be allowed ten minutes to summarize their prefiled testimony.

12. Parties shall examine and cross-examine witnesses through their attorneys, if they are represented by counsel. Any party not represented by counsel may examine and cross-examine each witness through any one representative chosen by the party.

13. Except for good cause shown, objections by any party relating to the qualifications of a witness or the admissibility of any portion of a witness's prefiled testimony shall be considered waived unless the objecting party states by motion its objection with particularity to the Administrative Law Judges and serves a copy of such objections on the Commission and all other parties **by July 5, 2006**. If an objection is made by a party, the party shall be permitted to lay further foundation for the objection through cross-examination of the witness. Any prefiled testimony that is not objected to shall be admitted during the evidentiary hearings without the necessity of laying foundation for the testimony.

Dated this 7th day of March, 2006.

s/Kathleen D. Sheehy

KATHLEEN D. SHEEHY
Administrative Law Judge

s/Steve M. Mihalchick

STEVE M. MIHALCHICK
Administrative Law Judge